



# CROATIA

Statement by

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at the

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Cluster I**

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- *Check against delivery* -

Mr. Chairman, distinguished colleagues,

*First of all, allow me once again to congratulate H. E. Ambassador Michal Mlynár on the election as the Chair of the 6th Committee.*

*I would also like to take this opportunity to welcome other members of the Bureau and the Chair and Members of the International Law Commission and to thank them for their presence today as well as for the presentation of the Commission's report.*

*It is my great pleasure to appear before you and to share with you Croatia's views on the work of the International Law Commission.*

The main focus of our intervention this year is on the following topics of the ILC Report – “Crimes against humanity”, “Succession of States in respect of State responsibility”, “Peremptory norms of general international law (jus cogens)” and “General principles of law”.

### **[Crimes against humanity]**

Mr. Chairman,

Croatia would like to take this opportunity to congratulate ILC on the adoption on second reading 15 draft articles on prevention and punishment of crimes against humanity. In this regard we would also like to commend ILC and Special Rapporteur Mr. Sean D. Murphy for their work and efforts invested in the preparation of these articles. In that context, Croatia supports the recommendation made by the ILC with regard the draft articles.

Furthermore, Croatia aligns itself with the statement delivered by the European Union on “Crimes against humanity”.

### **[Succession of States in respect of State responsibility]**

Mr. Chairman,

As a victim of the worst crimes committed in Europe after the WWII, during and after the process of dissolution of the predecessor State, consequences of which crimes are still present today, the Republic of Croatia paves a great importance to the topic „Succession of States in respect of State responsibility“. We highly appreciate the significance that the ILC has given to this issue so far and we would like to commend the Special Rapporteur, Mr. Pavel Šturma, for his efforts invested in this important topic. As well as the previous two, we find his third report and the draft articles contained therein to be a valuable contribution to this complex and important topic.

In that context, Croatia supports the approach that would endorse the general rule of “non-succession” with some exceptions, which should be well defined. We also agree with the Special Rapporteur that it is important to maintain consistency, both in terminology as well as in substance, with the previous work of the Commission, including in relation to the articles on responsibility of States for internationally wrongful acts.

With regard to the draft articles presented in the third report, we would particularly point out draft article 14 “Dissolution of States”, which entitles a successor State to claim reparation from the responsible State, taking into consideration “*a nexus between the consequences of the internationally wrongful act and the territory or nationals of the successor State, an equitable portion and other relevant factors*”. We find this provision as a good starting point which needs to be further considered and elaborated, especially by defining and specifying the term “*other relevant factors*”.

Furthermore, as we stated last year, having in mind different forms of succession of State responsibility, we reiterate that in future work on this topic it should take into account situations in which part or parts of the predecessor State that become successor States, could bear responsibility for international wrongful acts not only towards third States, but also towards other successor States of the once common state.

### **[Peremptory norms of general international law (*jus cogens*)]**

Mr. Chairman,

The next topic of our interest is “Peremptory norms of general international law (*jus cogens*)”. I would like to welcome the fourth report of the Special Rapporteur, Mr. Dire Tladi, which on our opinion represents an accurate and correct overview of the current state of the codification of international law, as well as the 23 draft conclusions adopted by the ILC on first reading.

In that context, we would like to point out the draft conclusion 14.3. („*The persistent objector rule does not apply to peremptory norms of general international law (jus cogens)*.”), which seems to be contrary to point 11 of the Commentary (on page 185) and therefore we suggest to reformulate the Conclusion according to the Commentary.

For the same reason of clarification, we would like to propose some additions in the draft conclusion 5.2, to read as follows: “*Treaty provisions and general principles of law may also **reflect and** serve as a bases for **development of** peremptory norms of general international law (jus cogens)*”.

As was mentioned in our interventions previous years, we generally support the proposal to include the illustrative list of *jus cogens* norms. In this respect, we are of the opinion that the non-exhaustive list of norms contained in the annex to the draft conclusion 23 should be further considered. In that context, it seems to us that the formulation of point a) is determined too narrow, so we would propose to align this point with the formulation of Article 2 of the UN Charter (“*The prohibition of the threat or use of force against the territorial integrity or political independence of any state*”). Also in our view points e), f) and g) should be merged into one point that could read as follows: “*The fundamental human rights, including prohibition of slavery, torture and racial discrimination*”. Furthermore, we suggest to exclude point h) from the list, since the content of the term “right to self-determination” and those entitled to that right are not clearly determined within the existing general international law and practice. On the other hand, given that it represents a growing global risk and threat, we believe that it should be considered how to properly reflect and include “prohibition of terrorism” on that list as well.

## **[General principles of law]**

Mr. Chairman,

The following topic of Croatia's interest is "General principles of law", which ILC decided to include in its programme of work at its 70<sup>th</sup> session (2018) and we have been looking forward to the first report of the Special Rapporteur Mr. Marcelo Vázquez-Bermúdez on this topic.

Croatia shares the views of the ILC that the distinction between general principles of law and customary international law is highly important and crucial for this topic. It is our impression that this distinction is not clearly enough explained in the first report, particularly concerning the identification of the general principles of law "formed within the international legal system", and that this issue should be further elaborated and adequately addressed by the Special Rapporteur in his following reports on this topic.

With regard to the proposed three draft conclusions, in our view the draft conclusion 2 defines the subject too narrow, limiting it only to "States", and we would rather support the approach that would include all actors involved in the formation of general principles of law, especially international organizations. In this respect, we also welcome the approach to use the term "community of nations" instead of the term "civilized nations".

## **[Sea-level rise]**

Mr. Chairman,

In addition to the comments and reflections that we have expressed, Croatia appreciates the interest that ILC has shown in relation to the topic "sea-level rise". With regard to the ILC's invitation to States to provide examples of their practice that may be relevant to sea-level rise, we would like to provide the information on Article 7 and Article 18 of the Maritime Code (Official Gazette, No. 181/04, 76/07, 146/08, 61/11, 56/13, 26/15, 17/19), which read as follows:

### *"INTERNAL WATERS*

#### *Article 7*

*(1) The internal waters of the Republic of Croatia encompass:*

- 1) harbours and bays on the seashore of the land and islands,*
- 2) parts of the sea between the low-water line on the seashore on land and the straight baseline for the measurement of the territorial sea width referred to in Article 18, Paragraph 2, Points 2 and 3 of this Code.*
- (2) A bay referred to in Paragraph 1, Point 1 of this Article is a clearly defined indentation into land whose sea surface is equal to or larger than the surface of the semicircle the length of the diameter of which equals the length of the straight line closing the entrance to the bay.*
- (3) The sea surface of the bay is measured from the low-water mark around the shore of the bay and the straight line closing the entrance to the bay.*
- (4) The ports open to international traffic in the Republic of Croatia are designated by the Government of the Republic of Croatia by a special regulation."*

## *“TERRITORIAL SEA*

### *Article 18*

*(1) The territorial sea of the Republic of Croatia is the sea belt 12 nautical miles wide, calculating from the baseline in the direction towards the exclusive economic zone.*

*(2) The baseline is formed by:*

*1) the line of the low waters along the shores of the land and the islands,*

*2) straight lines closing the entrances to ports or bays;*

*3) straight lines connecting these points on the shore of the land and on the shore of the islands:*

*a) cape Zaruba\_a - south-eastern cape of the island of Mrkan - southern cape of the island of St. Andrija - cape Gruj (island of Mljet),*

*b) cape Korizmeni (island of Mljet) - island of Glavat - cape Struga (island of Lastovo) - cape Veljeg Mora (island of Lastovo) - south-western cape of the island of Kopače - cape Velo Danče (island of Korčula) – cape Proizd – south-western cape of the island of Vodnjak - cape Rat (island of Drvenik Mali) - rock Mulo - rock Blitvenica - island of Purara - island of Balun - island of Mrtovac - island of Garmenjak Veli - point on the island of Dugi Otok with co-ordinates 43°53'12" north latitude and 15°10'00" east longitude,*

*c) cape Veli Rat (island of Dugi Otok) - rock Masarine - cape Margarina (island of Susak) – Albanež shallows – island of Grunj – rock of Sv. Ivan na Pučini - Mramori shallows - island of Altež - cape Kastanjija.*

*(3) The baselines are marked on the sea chart "Jadransko more" (Adriatic Sea), published by the Hydrographic Institute of the Republic of Croatia.*

*(4) In determining the straight baselines of the territorial sea, the most projecting permanent port constructions being an integral part of the port system shall also be considered as part of the seashore.“.*

I thank you.